

## City of Worcester

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### **An Ordinance Amending the Dog Control Provisions of the Revised Ordinances to Include Requirements for Responsible Pit Bull Ownership**

Be it ordained by the City Council of the City of Worcester, as follows:

**Section 1.** Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting a new Section 12A, as follows:

#### **§ 12A. Responsible Pit Bull Ownership**

**(a) Purpose.** Dogs known as pit bulls have generally-exhibited traits such as (i) powerful instincts for dominance which naturally results in a proclivity for fighting; (ii) a strong prey drive, which, inspires a natural chase instinct that often results in their aggressive pursuit of cats, rabbits, other dogs, and human children; (iii) a stubbornness that results in sustained, unyielding aggressiveness once an attack begins; (iv) powerful jaws capable of crushing bones and hanging onto victims even while the animal withstands infliction of injury or pain; and (v) a combination of stamina, agility, strength, and “gameness” (the will to successfully complete a task). Judicial and legislative bodies have reacted by noting that the classification of pit bulls as dangerous animals has a rational basis in fact and that adopting controlling measures in order to reduce the likelihood of human injury bears a rational relationship to the governmental objective of preserving public health, public safety, and public welfare. The city of Worcester has experienced an outbreak of violent pit bull attacks, such as: a 3-year-old boy who was left with more than 100 stitches and a fear of going home after he was attacked by a pit bull on Aetna Street. The Worcester Police Department Crime Analysis Unit found that from September 30, 2008, to September 30, 2009, there were 55 complaints of an attack or fear of an imminent attack by dogs, 29 of which incidents involved a pit bull and 26 by an unknown breed and the Worcester Police Department reports that 25% of all dog bite incidents, 39 out of 157 bites over a two year period, involve one breed: pit bulls.

**(b) Definitions.** The following words and phrases, when used in this section, shall have the following meanings:

*muzzle* - means a restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a pit bull’s snout/mouth/head, prevents the pit bull from biting but allows room for the pit bulls to breathe/pant.

*owner-keepers* - means every person who owns, possesses, keeps, exercises control over, maintains, harbors, transports, or sells a pit bull.

*pit bull* - includes, but is not limited to, any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog of mixed breed displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, such characteristics being identifiable even if there are technical deficiencies in any particular dog’s conformance thereto; or any dog identifiable by a licensed

veterinarian, animal control officer, or any other knowledgeable person whose identification is deemed credible by the Worcester Police Department or the animal control officer as having American Pit Bull Terrier, American Staffordshire Terrier, and/or Staffordshire Bull Terrier as any element of its breeding, or any dog registered or licensed as a pit bull. Specifically excepted from this definition is any dog with proof by American Kennel Club or United Kennel Club papers or by a written certification or written notice from a veterinarian licensed in the commonwealth of Massachusetts that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier. The term “pit bull” as used in this section 12A shall include any dog regardless of breed that qualifies as a “dangerous dog” under section 12(a)(i)-(iv) of this chapter.

*Secure temporary enclosure* - includes, but is not limited to, a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a securable door used for the ingress and egress of a pit bull. Such enclosure must be of such material, and such door closed and secured in such a manner, that the pit bull cannot exit the enclosure without human assistance.

**(c) Prohibition.** No person may own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city any pit bull while in violation of any of the provisions of this section 12A.

**(d) Registration and License.** All dogs shall be registered and licensed pursuant to section 10 of this chapter and all pit bulls shall be additionally registered and licensed pursuant to this section 12A. In no event, however, may more than two pit bulls may be registered, licensed, stored, housed, sheltered, or in any way located at a single household, except that puppy pit bulls less than nine weeks old shall not be included for the sole purpose of this two-animal restriction.

**(e) Additional Pit Bull Licensing Requirements.**

- (1) All owner-keepers of a pit bull must annually register such pit bull with the city clerk. The registration form shall require (i) the complete legal names, residential addresses and telephone numbers of all of the pit bull’s owner-keepers; and, (ii) presentation of a positive form of government-issued picture identification (no photocopies) for all of the owner-keepers, which identification the city clerk shall copy and attach to the application (iii) the complete address where the pit bull will be primarily housed/sheltered; and (iv) the complete details of the pit bull’s physical identification, including but not limited to breed, sex, weight, color, markings, and any other distinguishing physical characteristics, all provided by the owner-keepers; (v) a photograph of the pit bull that is not more than thirty calendar days old; and (vi) the complete details of the pit bull’s documented identification, including but not limited to the pit bull’s registration and/or license number as issued by the city clerk and true and accurate copies the pit bull’s rabies vaccination and a copy of the pit bull’s health record as prepared by a veterinarian which shall not be dated more than thirty calendar days from the application for registration of the pit bull under this section.

- (2) The owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the spay/neuter restriction in this subsection. The owner-keepers shall, at their expense, have the pit bull spayed or neutered and, unless previously submitted, shall submit to the city clerk an original or certified copy of documentary proof thereof from a licensed veterinarian. This requirement shall be waived upon a written statement from a licensed veterinarian that the procedure cannot or should not be performed for reasons of the health or age of the pit bull.
- (3) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the permission requirement in this sub-section. If the owner-keepers are not the owner of the premises at which the pit bull will be primarily housed/sheltered then the owner or keeper shall obtain the written permission of the landlord, lessor, property owner, or the duly authorized agent thereof for the presence and housing of the pit bull and, and unless previously submitted, shall submit the original written permission to the city clerk. A landlord, lessor, property owner, or the duly authorized agent thereof must approve in writing or deny in writing a request for permission within ten business days; upon a showing that ten business days have passed, the failure of a landlord, lessor, property owner, or the duly authorized agent thereof to respond shall be deemed to be approval.
- (4) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the specific requirements of subsection (f) of this section and attesting that whenever the pit bull is away from the private property of the owner-keepers, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the city, that the owner-keepers will ensure that the pit bull is either (i) adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed pit bull with the pit bull wearing a muzzle or (ii) in a secure temporary enclosure.
- (5) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the two-animal restriction in this section.
- (6) All owner-keepers shall separately acknowledge by signing or initialing a statement on the registration form acknowledging the signage requirement in subsection (g) of this section.
- (7) All owner-keepers registering a pit bull shall be eighteen years old or older.
- (8) The registration and license under this section is not transferable and shall be annually renewable only by the owner-keepers registering the pit bull.
- (9) The fee for the registration and license shall be not less than fifty dollars and no cents (\$50.00).
- (10) Upon a successful application, the city clerk shall provide the owner-keepers (i) a pit bull license tag; (ii) a complete copy of the application for registration and license as submitted by the owner-keepers, (iii) a written summary of all methods for contacting the animal control officers including but not limited to twenty-four

hour telephone contact information and an appropriate telephone number in the Worcester Police Department, and (iv) a copy of this section 12A.

- (11) The license tag issued by the city clerk pursuant to this section 12A shall be attached to the pit bull by means of a collar or harness and shall not be attached to any pit bull other than the pit bull for which the license tag was issued. If the pit bull license tag is lost or destroyed, the owner-keepers shall, within three business days, obtain a duplicate from the city clerk. The fee for duplicate license tags shall be not less than twenty-five dollars and no cents (\$25.00).

**(f) Adequate Control.** Supplementing the requirements of sections 12 and 14 of this chapter, at all times when a pit bull is away from the private property of the owner-keepers, specifically including but in no way limited to the streets, sidewalks, parks, and playgrounds of the city, all owner-keepers shall ensure that the pit bull is either (a) wearing a muzzle and adequately and securely led and leashed by a person with the clear ability to physically control/restrain the leashed pit bull, or, (b) in a secure temporary enclosure.

**(g) Signage and Enclosure.** All owner-keepers shall, whenever a pit bull is on the premises, display a sign advising all persons that a pit bull is located on the premises, and such sign shall be visible and legible from the further of (i) the nearest public or private way or (ii) one hundred feet. In no event may the pit bull sign be less than eight and one-half inches by eleven inches. The sign shall announce "PIT BULL DOG" or "BEWARE OF DOG" in lettering not less than two inches in height and in lettering that sharply contrasts with the background of the sign.

**(h) Transfer/Sale.** No owner-keeper shall sell or otherwise transfer a pit bull to any person except a member of the owner-keeper's immediate family unless such person has first obtained a registration and license from the city clerk in accordance with the provisions of this section 12A.

**(i) Notifications to Animal Control Officer.** All owner-keepers shall notify the animal control officers as follows:

- (1) Immediately if a pit bull has mauled, bitten, attacked, threatened, or in any way menaced another animal or a human;
- (2) Within twenty-four hours if a pit bull is on the loose, at-large, unconfined;
- (3) Within seven calendar days if a pit bull has died or has in any way permanently relocated;
- (4) Within fourteen calendar days if a pit bull becomes pregnant; and
- (5) Within seven calendar days if a pit bull has a litter of puppies.

All such notifications shall be made initially by telephone and shall, upon the request of an animal control officer or police officer, be committed to writing.

**(j) Exceptions.** The provisions of subsection (f) of this section notwithstanding:

- (1) Owner-keepers may transport into and hold in the city a pit bull for a temporary period not to exceed fourteen calendar days and only for the purpose of showing

- the owner-keeper's pit bull in a contest, show, or other exhibition event sponsored by a dog club association or similar organization.; provided that the sponsor/organizer of the event: 1) delivers written notice of the event to the animal control officer not later than twenty-one calendar days prior to the event; 2) obtains all permits or licenses required by law for the event; and, 3) demonstrates that it will implement adequate measures to prevent pit bulls from injuring the public. The owner-keepers of any pit bull so transported or held shall, at all times when the pit bull is being transported within the city keep the pit bull confined in a secure temporary enclosure and must place a conspicuous sign complying with the requirements of this section on the secure temporary enclosure.
- (2) No governmental entity nor any person authorized by a governmental entity that owns, keeps, or harbors a pit bull for law enforcement activities shall be subject to these sections.
  - (3) No dog that is trained and relied upon as a service dog or assistance dog by a person with a disability shall be subject to this section 12A, nor shall a dog which has successfully completed a dog or canine training program from a facility or instructor possessing a nationally accredited certification in dog training unless otherwise deemed a dangerous dog under section 12 of this chapter.

**(k) Impoundment; Investigation; Redemption.**

- (1) *Impoundment.* Any pit bull found by an animal control officer or police officer to be on the loose, at-large, or unconfined, or which has been observed by an animal control officer or any police officer to have mauled, bitten, attacked, threatened, or in any way menaced another animal or human shall be presumed to be in violation of this section 12A and shall be subject to immediate impoundment. All animal control officers are authorized to immediately impound any pit bull in violation of this section 12A. The animal control officers are authorized to temporarily house any impounded pit bull and to dispose of the same, with the approval of the chief of police, at his/her sole professional discretion.
- (2) *Investigation.* All animal control officers are empowered to make whatever inquiry or investigation is deemed necessary to ensure compliance with the provisions of this section 12A. All animal control officers are empowered to seize and impound any pit bull found to be in violation of this section 12A or any pit bull for which the owner or keeper has failed to comply with any of the provisions of this section 12A.
- (3) *Redemption.* The animal control officer shall not release a pit bull from impoundment unless the owner-keepers (i) provide proof of registration and license satisfactory to the animal control officer, (ii) provide adequate proof that any violations of this section 12A have been corrected in a manner satisfactory to the animal control officer, (iii) remit payment to the animal control officer of all fines issued pursuant to violations under section ten through section 15 hereof, and (iv) remits payment to the animal control officer for the costs associated with the impounding of the pit bull and the term of impoundment of the pit bull.

**(l) Appeal.** Owner-keepers of a dog that has been impounded pursuant to this section 12A or section 15 of this chapter or that has been the subject of a citation for violation under this section 12A may dispute the classification of such dog as a pit bull by filing a written petition with the chief of police for a hearing concerning such classification no later than seven calendar days after the date of impoundment or citation. A petition shall include, but not be limited to, (i) the complete legal name, residential address and telephone numbers of the dog's owner-keepers; (ii) the complete address where the pit bull is primarily housed/sheltered; and (iii) the complete details of the dog's documented identification, including but not limited to the dog's registration and/or license numbers as issued by the city clerk; and (iv) a summary of the facts that the petitioner wishes to introduce for consideration. The written petition shall be submitted under oath or affirmation. The chief of police may delegate the conduct of the hearing to an animal control officer or any official in the police department.

**(m) Provocation.** No person may strike, tease, torment or abuse, or in any way antagonize, a pit bull in such a manner as to inspire or cause an attack by a pit bull. Any such provocation shall be considered a mitigating circumstance in any enforcement decision made under this section 12A.

**(n) Harmonious Construction.** The provisions of this section 12A shall supplement and be construed harmoniously with sections 10-15 of this chapter and the Massachusetts General Laws chapter 140.

**Section 2.** Section 15 of Chapter Eight of the Revised Ordinances of 2008 is hereby amended by inserting in subsection (d) thereof, after the words "dangerous dog or a nuisance animal" the words "a pit bull found in violation of any provision of section 12A hereof".

**Section 3.** This ordinance shall take effect on the later of ninety days from the date of final adoption or April 1, 2011.